

Restricted

HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

Yokohama, Japan
16 December 1948

UNITED STATES OF AMERICA VS HIROICHI KONISHI
UNITED STATES OF AMERICA VS TOKIICHI KOIZUMI
UNITED STATES OF AMERICA VS MINORU TAKEUCHI
UNITED STATES OF AMERICA VS MASAICHI HORIE

Review of the Staff Judge Advocate

1. The attached record of trial by common trial of Hiroichi Konishi, Tokiichi Koizumi, Minoru Takeuchi and Masaichi Horie, at Yokohama, Japan, tried from 22 October 1948 to 25 October 1948, by a Military Commission appointed by paragraph 1, Special Orders No. 237, Headquarters Eighth Army, United States Army, dated 19 October 1948, having been referred to the Staff Judge Advocate, this review is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Hiroichi Konishi	DATE OF CONFINEMENT: 12 August 1948
AGE: 36	DATE OF ARRAIGNMENT: 25 October 1948
RESIDENCE: Osaka-Fu, Kitakawachi-Gun, Neyagawa-Cho, Keisatsu jutaku	PLACE OF TRIAL: Yokohama, Japan
MARITAL STATUS: Married	PERIOD OF TRIAL: 22--25 October 1948
RELATIVES: Wife, three children, sister	DATE OF SENTENCE: 25 October 1948
EDUCATION: Technical School, (Russian language)	SENTENCE: CHL for eight (8) years
VOCATION: Company employee	CLEMENCY RECOMMENDED BY COMMISSION: No
MILITARY CAREER: 1935 to 1936 (one year)	

NAME: Tokiichi Koizumi	DATE OF CONFINEMENT: 27 July 1948
AGE: 44	DATE OF ARRAIGNMENT: 25 October 1948
RESIDENCE: Osaka City, Minatuku, Higashi Tanaka Cho, 8 Chome No. 49	PLACE OF TRIAL: Yokohama, Japan
MARITAL STATUS: Married	PERIOD OF TRIAL: 22--25 October 1948
RELATIVES: Wife, mother, brother, three sisters	DATE OF SENTENCE: 25 October 1948
EDUCATION: Elementary school (8 years)	SENTENCE: CHL for two (2) years
VOCATION: Business in fuel	CLEMENCY RECOMMENDED BY COMMISSION: No
MILITARY CAREER: Jan 1926--Aug 1928 (Regular Army, corporal); Aug 1938--Sept 1940. June 1941--Dec 1942 (sergeant).	

Restricted

Restricted

NAME: Minoru Takeuchi
AGE: 28
RESIDENCE: Hyogo-Ken, Amagasaki
City, Inadera, Haebatake No.
273
MARITAL STATUS: Married
RELATIVES: Wife, three brothers,
sister
EDUCATION: Elementary school
(8 years)
VOCATION: Company employee
MILITARY CAREER: None

DATE OF CONFINEMENT: 28 July 1948
DATE OF ARRAIGNMENT: 25 October
1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 22--25 October
1948
DATE OF SENTENCE: 25 October
1948
SENTENCE: CHL for twelve (12)
years
CLEMENCY RECOMMENDED BY COM-
MISSION: No

NAME: Masaichi Horie
AGE: 31
RESIDENCE: Osaka City, Minato-Ku
Chiyomi-Cho, 3 Chome
MARITAL STATUS: Married
RELATIVES: Wife, father, mother,
two sisters
EDUCATION: Elementary School
(6 years)
VOCATION: Business
MILITARY CAREER: 1939 to April
1942 (private)

DATE OF CONFINEMENT: 27 July
1948
DATE OF ARRAIGNMENT: 25 October
1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 22--25 October
1948
DATE OF SENTENCE: 25 October
1948
SENTENCE: CHL for three (3)
months
CLEMENCY RECOMMENDED BY COM-
MISSION: No

2. Synopsis of Charges, Pleas, Findings and Legal Sufficiency:

<u>Charges and Specifications</u>	<u>Pleas</u>	<u>Findings</u>	<u>Legally Sustained</u>
<u>KONISHI</u>			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	G	G	Yes
Sp 1: In or about July 1945, accused did willfully and unlawfully mistreat LIU Chien-chi, a Chinese civilian, by beating, torturing and otherwise abusing him.	G	G	Yes
Sp 2: In or about July 1945, accused did willfully and unlawfully mistreat KUNG Ching-heng, a Chinese civilian, by beating and otherwise abusing him.	G	G	Yes
Sp 3: Between 1 October 1944 and 31 August 1945, accused did willfully and unlawfully cause the mistreatment, torture and other abuse of PING San, a Chinese civilian.		Nolle prosequi (R 4)	

Restricted

Restricted

Sp 4: Between 1 October 1944 and 31 August 1945, accused did willfully and unlawfully cause the mistreatment and torture of one CHANG (FNU), a Chinese civilian, by the insertion of ten small steel pins under his fingernails, thereby resulting in his permanent injury.

Nolle prosequi
(R 4)

Sp 5: Between 1 October 1944 and 31 August 1945, accused did willfully and unlawfully mistreat and torture LIU Ching-po, a Chinese civilian, by burning him with flaming newspapers and severely beating him with a bamboo sword.

G

G

Yes

Sp 6: Between 1 October 1944 and 31 August 1945, accused did willfully and unlawfully mistreat and torture HOU Chih-k'an, a Chinese civilian, by burning off his whiskers, eyelashes and eyebrows, thereby inflicting severe burns on him.

Nolle prosequi
(R 4)

Sp 7: On numerous occasions between 14 December 1944 and 22 January 1945, accused, with others, did willfully and unlawfully mistreat TEI HO YU, a Chinese civilian, by torturing, beating and otherwise abusing him.

Nolle prosequi
(R 4)

Sp 8: On numerous occasions between about 28 November 1944 and 7 June 1945, accused, with another unidentified policeman, did willfully and unlawfully, mistreat CHIN SHU KO, also known as SHU HU CHIN, a Chinese civilian, by beating, torturing and otherwise abusing him thereby contributing to his death on or about 17 September 1945.

Nolle prosequi
(R 4)

Sp 9: On numerous occasions between 1 October 1944 and 31 August 1945, accused did willfully and unlawfully mistreat, torture and otherwise abuse numerous other Chinese Prisoner of War laborers, Chinese civilian internees and Chinese civilians by beating them and causing them to be beaten with sticks and clubs, burning their flesh, using pins under their fingernails and other tortures.

G

G

Yes

Restricted

Restricted

KOIZUMI

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	G	G	Yes
--	---	---	-----

Sp 1 (as amended, R 4): Between 1 October 1944 and 31 August 1945, accused did willfully and unlawfully mistreat and abuse approximately two hundred and sixty-eight Prisoner of War laborers, civilian internees and members of civilian population, all Chinese nationals, by failing to supply them with food and other necessities.	G	G	Yes
---	---	---	-----

Sp 2: Between 1 December 1944 and 31 August 1945, accused did unlawfully disregard the duty imposed on him relative to the Prisoner of War laborers, civilian internees and other civilians, all Chinese Nationals, by failing to control and restrain others under his supervision and control and by permitting them to commit the following atrocities and other offenses against said Nationals:	G	G	Yes
--	---	---	-----

a. On numerous occasions the unlawful mistreatment and beating by bamboo club or metal bar those sick patients interned in the camp infirmary.	G	G	Yes
--	---	---	-----

b. In or about December 1944, the unlawful mistreatment of three of the Chinese Nationals by feeding them poisoned wine as a result of which LEE Lan-Tsu died and the other two became violently ill.		Nolle prosequi (R 4)	
---	--	-------------------------	--

c. On several occasions in or about January 1945, the unlawful mistreatment and torturing of many of the said Chinese Nationals, including YOUNG, LO-Ho, by burning their beards off their faces and causing severe injuries thereby.	G	G	Yes
---	---	---	-----

d. (as amended, R 4) In or about February 1945, the unlawful mistreatment and abuse of Captain YEN Kung-Jin, by beating and kicking him severely in and about his head and body.	G	G	Yes
--	---	---	-----

Restricted

- Restricted*
- | | | | |
|---|---|-------------------------|-----|
| e. (as amended, R 4) In or about April 1945, the unlawful mistreatment and abuse of IWAN Mei, by stringing him up by his wrists, using metal hand cuffs and beating him. | G | G | Yes |
| f. (as amended, R 4) In or about April 1945, the unlawful mistreatment and abuse of six of the laborers, including FAN Yun-Kung, CHU Tsing-Yuan, FAN Pai-Wa, LEE Cheng-Po, CHEN Siu-Shen and WEE Sin-Chung, by beating them. | G | G | Yes |
| g. (as amended, R 4) In or about May 1945, the unlawful mistreatment and abuse of CHEE Shong-Inn, by striking him so severely that he caused him to fall and sustain many broken bones and other injuries. | G | G | Yes |
| h. In or about the beginning of July, 1945, the unlawful mistreatment and abuse of YUANG Chao-Sin, by beating him with a club in and about his head and eyes until he became unconscious. | G | G | Yes |
| i. In or about July 1945, the unlawful mistreatment and abuse of thirty of the laborers, including SUNG Shuan-Nu and HSIE Chen-Hai, by beating them with an iron bar about their heads and bodies so that blood flowed down their faces and many contusions and abrasions appeared on their bodies and heads. | G | G | Yes |
| j. (as amended, R 4) In or about August, 1945, the unlawful mistreatment and abuse of AN Shaw-Sin and WONG Go-Shin by beating them so severely with wooden clubs and iron bars on and about their heads and bodies. | G | G | Yes |
| k. Between 1 October 1944 and 31 August 1945, the unlawful mistreatment and abuse of approximately two hundred and sixty-eight Prisoners of War, civilian internees and members of civilian population, all Chinese Nationals, by preventing them from going to air raid shelters during bombing attacks on the area, thereby contributing to the injury and death of some of them. | | Nolle prosequi
(R 4) | |

1. (as amended, R 4) Between 1 October 1944 and 31 August 1945, the unlawful mistreatment and abuse of numerous internees, other than those previously specified, by beating them with wooden clubs and iron bars, thereby inflicting upon them many and serious injuries.	G	G	Yes
--	---	---	-----

TAKEUCHI

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	G	G	Yes
--	---	---	-----

Sp 1 (as amended, R 4): Between 1 October 1944 and 31 August 1945, accused did willfully and unlawfully mistreat and abuse approximately two hundred and sixty-eight Prisoner of War laborers, civilian internees and members of civilian population, all Chinese Nationals, by failing to supply them with food and other necessities.	G	G	Yes
---	---	---	-----

Sp 2: Between 1 October 1944 and 31 August 1945, accused did willfully and unlawfully mistreat and abuse Prisoner of War laborers, civilian internees and other civilians, all Chinese Nationals, by committing the following atrocities and other offenses against them:	G	G	Yes
---	---	---	-----

a. On numerous occasions the unlawful mistreatment and beating by bamboo club, wooden club, or metal bar those sick patients interned in the camp infirmary.	G	G	Yes
--	---	---	-----

b. On several occasions in or about January 1945, the unlawful mistreatment and torturing of many of the said Chinese Nationals including YOUNG, Lo-Ho, by burning their beards off their faces and causing severe injuries, thereby.	G	G	Yes
---	---	---	-----

c. (as amended, R 4) In or about February 1945, the unlawful mistreatment and abuse of Captain YEN Kung-Jin, by beating and kicking him severely in and about his head and body.	G	G	Yes
--	---	---	-----

d. (as amended, R 4) In or about April 1945, the unlawful mistreatment and abuse of DWAN, Mei, by stringing him up by his wrists, using metal hand cuffs and beating him.	G	G	Yes
---	---	---	-----

e. (as amended, R 4) In or about May 1945, the unlawful mistreatment and abuse of CHEE, Shong-Inn, by striking him so severely that he caused him to fall and sustain many broken bones and other injuries.	G	G	Yes
f. In or about the beginning of July 1945, the unlawful mistreatment and abuse of YUANG, Chao-Sin, by beating him with a club in and about his head and eyes until he became unconscious.	G	G	Yes
g. In or about July 1945, the unlawful mistreatment and abuse of thirty of the laborers, including SUNG, Shuan-Nu and HSIE, Chen-Hai, by beating them with an iron bar about their heads and bodies so that blood flowed down their faces and many contusions and abrasions appeared on their bodies and heads.	G	G	Yes
h. (as amended, R 4) In or about August 1945, the unlawful mistreatment and abuse of AN, Shaw-Sin, and WONG, Go-Shin, by beating them so severely with wooden clubs and iron bars on and about their heads and bodies.	G	G	Yes
i. (as amended, R 4) Between 1 October 1944 and 31 August 1945, the unlawful mistreatment and abuse of numerous internees, other than those previously specified, by beating them with wooden clubs and iron bars, thereby inflicting upon them many and serious injuries.	G	G	Yes
3. Between 1 October 1944 and 31 August 1945, accused did willfully and unlawfully mistreat and abuse approximately two hundred and sixty-eight Prisoner of War laborers, civilian internees and members of civilian population, all Chinese Nationals, by preventing them from going to air raid shelters during bombing attacks on the area thereby contributing to the injury and death of some of them.		Nolle prosequi (R 4)	

Restricted

HORIE

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.

G

G

Yes

Sp 1: On numerous occasions between 1 October 1944 and 31 August 1945, accused did willfully and unlawfully mistreat and beat by hand, wooden club and metal bar CHENG SIU-SHEN, a Chinese National interned there.

G

G

Yes

3. Summary of the Evidence

a. For the Prosecution:

The record of this trial discloses that the accused, Konishi, Koizumi, Takeuchi and Horie, are charged as war criminals for alleged violations of the Laws and Customs of War.

The specifications against Konishi over actions that occurred at the Ikeda Police Station, at or near Osaka, Honshu, Japan. Accused Konishi was then the Assistant Police Inspector for the Asiatic Division, Foreign Affairs Section, of the Prefecture of Osaka. The specifications against Koizumi, Takeuchi and Horie over actions that occurred at or near the Yahataya Kita Primary School Annex Internment Camp, Osaka, Honshu, Japan. Koizumi was the Chief Supervisor; Takeuchi was Supervisor in charge of supplies; Horie was a civilian guard, at the said camp.

KONISHI:

As to Specification 1: In July 1945, Liu Chia-kun, at the Ikeda Police Station, Osaka, Honshu, Japan, saw accused unlawfully mistreat Liu Chien-chi by beating the backs of his hands with a bamboo stick until they became swollen and blue, spray hot water in his face, kick him in the face and burn his chin with a lighted newspaper (Ex 9).

As to Specification 2: In or about July 1945, Kung Ching-heng was called to the Osaka Prefectural Government building to act as an interpreter. There the accused ordered him to kneel and beat him with an umbrella and a bamboo stick (Ex 11).

As to Specification 3: Nolle prosequi (R 4).

As to Specification 4: Nolle prosequi (R 4).

As to Specification 5: During a trial at the Osaka Metropolitan Prefecture Court, the accused unlawfully mistreated Liu Ching-po by burning his body with a lighted newspaper and beating him with a bamboo sword (Ex 4).

As to Specification 6: Nolle prosequi (R 4).

As to Specification 7: Nolle Prosequi (R 4).

(p 8 of 12, Konishi et al, Case No 349)

Restricted

Restricted

As to Specification 8: Nolle Prosequi (R 4).

As to Specification 9: Between 1 October 1944 and 31 August 1945, about fourteen (14) Chinese nationals were unlawfully mistreated and abused by accused and men under his supervision by beatings with sticks and clubs, burning their flesh, inserting small steel pins under their fingernails and other tortures (Ex 2, 11-13).

KOIZUMI:

As to Specification 1: Between 1 October 1944 and 31 August 1945, accused, as Chief Supervisor of Yahataya Kita Primary School Annex Internment Camp, Osaka, Honshu, Japan, did willfully mistreat and abuse approximately two hundred sixty-eight internees, all Chinese nationals, by failing to supply sufficient food and medical supplies, resulting in all of the internees suffering in various degrees of malnutrition. Accused failed to take necessary actions to prevent Supervisor of Supplies Takeuchi from appropriating for his personal use supplies issued for use of the internees (Ex 1-3).

As to Specification 2: That between 1 December 1944 and 31 August 1945, while accused was Chief Supervisor of the Yahataya Kita Primary School Annex Internment Camp, he did unlawfully disregard his duty as camp commander by failing to control and restrain others under his supervision and control from mistreating and abusing the internees of the said camp (Ex 1-3, 13):

a. On numerous occasions patients of the camp infirmary were beaten by personnel of the camp (Ex 1).

b. Nolle prosequi (R 4).

c. In or about January 1945, Young Lao-ho and other internees had their beards burned off by personnel of the camp (Ex 1).

d. In or about February 1945, Captain Yen Kung-jin was severely beaten about the head and body by Supervisor Takeuchi (Ex 1).

e. In or about April 1945, guards of the camp strung up internee Dwan Mei by his wrists, using metal handcuffs, and beat him with wooden clubs (Ex 1).

f. In or about April 1945, guard Yamashita beat Chu Tsing-yuan, Fan Yuin-kung and Fan Pai-wa severely (Ex 1).

g. In or about May 1945, Supervisor Takeuchi beat Chee Shong-Inn about the head with a club, resulting in severe injuries (Ex 1).

h. In or about July 1945, Supervisor Takeuchi beat Yuang Chao-sin so severely about the head and body that he became unconscious (Ex 1).

i. In or about July 1945, Supervisor Takeuchi beat about thirty internee laborers, including Sung Shuan-nu and Hsieh Chen-Hai, so severely that blood flowed from the faces of some and lumps were visible on their heads (Ex 1).

j. In or about August 1945, Supervisor Takeuchi beat Wong Go-shin and An Shaw-Sin severely with iron bars and wooden clubs (Ex 1).

Restricted

k. Nolle prosequi (R 4).

1. Between 1 October 1944 and 31 August 1945, many of the internees of the said camp were beaten by the camp personnel with sticks, poles, iron rods, ropes and hands and fists (Ex 1-3, 13).

TAKEUCHI:

As to Specification 1: Between 1 October 1944 and 31 August 1945, the accused, as Supervisor in the Yahataya Kita Primary School Annex Internment Camp, Osaka, Honshu, Japan, in charge of issuing supplies for the use of the internees, all Chinese nationals, appropriated, for his personal use, supplies issued for the consumption of the internees of the said camp, thereby resulting in all of the internees, approximately two hundred sixty-eight, suffering in various degrees from malnutrition (Ex 1-3).

As to Specification 2: Between 1 October 1944 and 31 August 1945, the accused, as Supervisor of said camp, did willfully and unlawfully mistreat and abuse internees of this camp, all Chinese Nationals, by beatings, slappings, and burnings (Ex 1-3, 13):

a. The accused, on numerous occasions, beat patients in the camp infirmary (Ex 1).

b. In or about January 1945, accused burned the beards of internees, including Young Lo-ho, causing severe injury (Ex 1).

c. In or about February 1945, accused was asked by Captain Yen Kung-jim to decrease the working hours and increase the food ration. Accused beat him about the head and body until Yen fell down and then accused kicked him about the head and body, causing severe injuries (Ex 1).

d. In or about April 1945, internee Dwan Mei was strung up by his wrists and severely beaten by personnel of the camp. Accused was the first to beat Dwan Mei (Ex 1).

e. In or about May 1945, internee Chee Shong-Inn was working on a ship. The accused saw him trying to reach the top deck latrine and beat him in and around the head with a club. Chee, trying to avoid the blows, fell into the hold of the ship, sustaining severe injuries about his head and ribs (Ex 1).

f. In or about July 1945, internee Yuang Chao-sin was late for roll call after one of the air raids. The accused beat him so severely with a club about his head, body and eyes that he became unconscious (Ex 1).

g. In or about July 1945, the accused lined up about thirty internees and beat most of them with an iron rod. Some of the group were so severely beaten that blood flowed from their faces and lumps were visible on their heads. Sung Shuang-nu and Hsie Chen-hai were two of the internees (Ex 1).

h. In or about August 1945, just before the end of the war, An Shaw-sin and Wong Go-shin became so weak and exhausted that they were unable to keep up with the work. The accused beat them severely with iron bars and wooden clubs (Ex 1).

Restricted

Restricted

i. Between the dates of 1 October 1944 and 31 August 1945, the accused beat almost every man many times on the slightest pretext and usually without any provocation whatsoever, with a wooden club or an iron bar. The accused beat the internees unmercifully with bamboo sticks, poles, iron rods and helmets, ropes and with his hands and fists (Ex 1-3, 5, 13).

HORIE:

As to Specification 1: Between 1 October 1944 and 31 August 1945, on at least two occasions, accused beat Chen Siu-shen (Ex 1).

b. For the Defense:

The accused, Konishi, Koizumi, Takeuchi and Horie, their rights as war crimes suspects, as set forth under SCAP rules, having been fully explained to them and the meaning of the plea of guilty or not guilty having likewise been explained to them, and with the concurrence and consent of their Japanese counsel, entered pleas of Guilty to the Charges and Specifications as amended (R 9, 10, 11, 12).

The American Advisory Counsel, in a plea to the Commission, recommended that the following sentences would be just and adequate punishment for the offenses alleged:

Konishi	-	6 to 8 years
Takeuchi	-	10 to 12 years
Koizumi	-	2 years
Horie	-	3 months.

The Japanese counsels for the accused concurred in the recommendations of the American Advisory Counsel (R 15).

4. Opinion:

(a) The Commission was constituted by proper authority and had jurisdiction of the accused and of the offenses alleged. There is no evidence that any of the accused were insane or otherwise incompetent at the time of the trial or at the time of the alleged offenses. Insanity was not an issue.

(b) As to Koizumi, in his capacity as Chief Supervisor of the camp, had a duty to protect the internees. He was, in effect, their guardian under the Rules of Land Warfare and under the existing letters and instructions of the Japanese War Ministry and Japan's Agreement to apply provisions of the Prisoners of War Convention as far as practicable to interned civilians and enemy military personnel captured. It was the duty of Koizumi to use due diligence and to determine that the internees under his supervision were not being mistreated. He had the affirmative duty to take such measures as were within his power and appropriate to the circumstances to protect the internees under his control from violations, cruelty and violence inflicted by members under his control. Failure to prevent the atrocities was a breach of duty and constituted an offense.

(c) The Charges and Specifications against the accused, Konishi, Takeuchi and Horie alleged that they committed brutal atrocities against Chinese nationals.

Restricted

Restricted

(d) There is sufficient evidence in the record, established by affidavits received in evidence by the Commission, which conclusively supports the findings of guilty and establishes the guilt of the accused herein for the offenses alleged in the Charges and Specifications, as amended, and for which they were convicted.

(e) To guard against any error regarding the amendments to the Specifications, the Commission noted the amendments in promulgating their findings with findings of Not Guilty to the amendments.

(f) There are numerous instances in the affidavits admitted into evidence in which names of the internees are misspelled. However, these errors can be reconciled by a comparison of the incidents related and the similarity of spelling. One must take into consideration the difficulty of spelling Asiatic names. These slight errors in no way adversely affected the substantial rights of the accused.

(g) The individual sentences of the accused are considered lenient for the crimes committed. There were no mitigating circumstances or any justification for the offenses committed.

5. Recommendations:

It is recommended that the sentences as to each of the four accused be approved. In compliance with the established policy, none of the accused is entitled to any credit for time spent in confinement prior to the date of sentence. Sugamo Prison, Tokyo, Honshu, Japan, is the appropriate place of confinement.

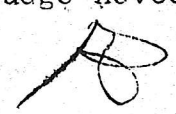
6. Action:

Attached hereto are forms of action designed to carry into effect the above recommendations.

ENOFIO E. SCLAFANI
Captain, JAGD
Asst Staff Judge Advocate

I concur in general.

ALLAN R. BROWNE
Lt Col JAGI
Army Judge Advocate



Restricted